

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

The date for a report is enlarged to March 31, 2021.
So ordered,
/s/
Alvin K. Hellerstein
1/28/21

_____	X	
In re AMERICAN REALTY CAPITAL	:	Civil Action No. 1:15-mc-00040-AKH
PROPERTIES, INC. LITIGATION	:	
_____	:	<u>CLASS ACTION</u>
	:	
This Document Relates To:	:	
	:	
ALL ACTIONS.	:	
_____	X	

SECOND REPORT OF CLAIMS ADMINISTRATOR GILARDI & CO. LLC

Pursuant to the Court's January 29, 2020 Order Concerning Periodic Reports by Claims Administrator (ECF No. 1314), the Declaration of Mishka Ferguson Concerning Status of Claims Administration and Payment of Partial Distribution (the "Ferguson Distribution Declaration") is attached hereto as Exhibit A. As explained in greater detail therein, on December 23, 2020, the Claims Administrator, Gilardi & Co. LLC ("Gilardi") made an initial distribution of the Net Settlement Fund on a pro-rata basis to approximately 31,000 claimants who submitted valid and perfected claims as of December 11, 2020. A reserve was established sufficient to make a subsequent pro-rata distribution to claimants with currently disputed claims that are subsequently determined to be valid and perfected. Upon completion of that review, Gilardi will distribute the remainder of the Net Settlement Fund such that all claimants with valid and perfected claims shall have received their pro-rata share of the Net Settlement Fund.

Upon request, we will provide the Court *in camera* with the amount of the initial distribution. However, due to the large number of claims submitted by parties expressly excluded from the Class and deficient claims currently in dispute, we believe that publicly disclosing that sum at this time could further encourage those who have filed duplicate or defective claims to persist in pressing those claims.

The timing of the initial distribution was negatively impacted by deficient claims filed by third party filers such as Financial Recovery Technologies, Battea/Class Action Services LLC and Chicago Clearing Corporation. These third party filers contract with and file claims on behalf of shareholders, typically for a fee or in exchange for a portion of the recognized claim. Claims filed by these and other third party claims filers were submitted without sufficient documentation, with data which required certification from the filer or with data which has since been revised by the filer, in some instances more than once. This resulted in a necessary diversion of resources and required

scores of hours to unravel. A final distribution to Class Members who complied with the Court's order and submitted timely claims was also delayed by the discovery, investigation and resolution of disputed, potentially fraudulent and otherwise deficient claims, as well as the identification of duplicative claims submitted by or on behalf of ARCP investors who had previously settled with and were paid by ARCP, and therefore excluded from the Settlement by orders of the Court.

Once the currently disputed claims are resolved, the Claims Administrator will distribute any remaining proceeds in the Net Settlement Fund to claimants with valid and perfected claims.

DATED: January 26, 2021

Respectfully submitted,

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Lead Counsel for Lead Plaintiff and the Class

CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury that on January 26, 2021, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses on the attached Electronic Mail Notice List, and I hereby certify that I caused the mailing of the foregoing via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

s/ Debra J. Wyman

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Mailing Information for a Case 1:15-mc-00040-AKH In re American Realty Capital Properties, Inc. Litigation

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EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re AMERICAN REALTY CAPITAL	:	Civil Action No. 1:15-mc-00040-AKH
PROPERTIES, INC. LITIGATION	:	
_____	:	<u>CLASS ACTION</u>
	:	
This Document Relates To:	:	
	:	
ALL ACTIONS.	:	
_____	X	

DECLARATION OF MISHKA FERGUSON CONCERNING STATUS OF CLAIMS
ADMINISTRATION AND PAYMENT OF PARTIAL DISTRIBUTION

I, MISHKA FERGUSON, declare as follows:

1. I am Vice President of Securities at Gilardi & Co. LLC (“Gilardi”), located at 1 McInnis Parkway, Suite 250, San Rafael, California 94901. I make this declaration based on personal knowledge, and if called to testify I could and would do so competently.

2. Pursuant to the Court’s January 29, 2020 Order Concerning Periodic Reports By Claims Administrator (Dkt. No. 1314), the Court directed Gilardi to submit to the Court periodic reports based upon reaching certain milestones in the claims administration process. The first report required by the Order was submitted on November 6, 2020 (Dkt. No. 1321). The Order requires a second report “[o]nce the first distribution is sent...informing the Court that distribution of the Net Settlement Fund has begun and the amount distributed.” Dkt. No. 1314 at 1. I am providing this Declaration in compliance with that Order.

3. On December 23, 2020, an initial distribution of the Net Settlement Fund was made to the 31,711 claimants with valid and perfected claims as of December 11, 2020.

4. As of January 21, 2021, there remain a substantial number of claims that have either been rejected, have outstanding data deficiencies, document deficiencies or other concerns, or have been newly submitted or revised recently and remain to be processed. Gilardi and Lead Counsel are continuing to evaluate these claims. A reserve has been established sufficient to make a subsequent pro-rata distribution to claimants with currently disputed, revised, or late claims that are subsequently determined to be valid and perfected.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 26th day of January, 2021, at San Rafael, California.


MISHKA FERGUSON